

Bureau of Land Management, Interior

§ 2094.1

for or offer of such a lease or permit, the land will be subject to the right of such prior mineral permittee or lessee, or of such prior applicant for or offeror of a mineral permit or lease, to occupy and use so much of the surface of the lands as may be reasonably required for mineral leasing operations, without liability to the entryman, allottee, or patentee for crop and improvement damages resulting from such mineral activity.

§ 2093.4-3 Obligations of subsequent mineral permittees or lessees.

(a) Any coal permit applicant or non-competitive oil and gas lease offeror whose application or offer was filed subsequent to the date of the initiation of a claim that is subject to the provisions of the Act of 1922 must file with the authorized officer of the proper office a waiver from, or a consent of, the claimant or a bond or undertaking on forms approved by the Director, for coal applicants and for oil and gas offerors for the payment of all damages to the crops and improvements on the lands caused by the prospecting.

(b) [Reserved]

§ 2093.5 Disposition of minerals reserved to the U.S. Government.

§ 2093.5-1 Act of December 29, 1916.

(a) *Reservation of rights.* (1) Section 9 of the Act of December 29, 1916 (39 Stat. 864; 43 U.S.C. 299), provides that all entries made and patents issued under its provisions shall contain a reservation to the United States of all coal and other minerals in the lands so entered and patented, together with the right to prospect for, mine, and remove the same; also that the coal and other mineral deposits in such lands shall be subject to disposal by the United States in accordance with the provisions of the coal and mineral land laws in force at the time of such disposal.

(2) There will be incorporated in patents issued on homestead entries under this act the following:

Excepting and reserving, however, to the United States all the coal and other minerals in the lands so entered and patented, and to it, or persons authorized by it, the right to prospect for, mine, and remove all the coal and other minerals from the same upon compliance with the conditions, and subject to

the provisions and limitations, of the Act of December 29, 1916 (39 Stat. 862).

Subpart 2094—Special Resource Values; Shore Space

AUTHORITY: R.S. 2478, secs. 4, 5, 69 Stat. 444; 43 U.S.C. 1201, 48 U.S.C. 462 note.

SOURCE: 35 FR 9540, June 13, 1970, unless otherwise noted.

§ 2094.0-3 Authority.

Section 1 of the Act of May 14, 1898 (30 Stat. 409) as amended by the Acts of March 3, 1903 (32 Stat. 1028) and August 3, 1955 (69 Stat. 444; 48 U.S.C. 371) provides that no entry shall be allowed extending more than 160 rods along the shore of any navigable water. Section 10 of the Act of May 14, 1898, as amended by the Acts of March 3, 1927 (44 Stat. 1364), May 26, 1934 (48 Stat. 809), and August 3, 1955 (69 Stat. 444), provides that trade and manufacturing sites, rights-of-way for terminals and junction points, and homesites and headquarters sites may not extend more than 80 rods along the shores of any navigable water.

§ 2094.0-5 Definitions.

The term *navigable waters* is defined in section 2 of the Act of May 14, 1898 (30 Stat. 409; 48 U.S.C. 411), to include all tidal waters up to the line of ordinary high tide and all nontidal waters navigable in fact up to the line of ordinary highwater mark.

§ 2094.1 Methods of measuring; restrictions.

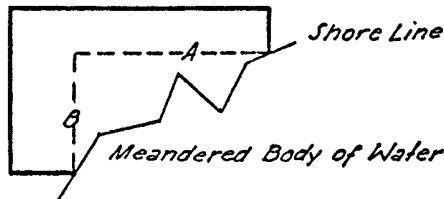
(a) In the consideration of applications to enter lands shown upon plats of public surveys in Alaska, as abutting upon navigable waters, the restriction as to length of claims shall be determined as follows: The length of the water front of a subdivision will be considered as represented by the longest straight-line distance between the shore corners of the tract, measured along lines parallel to the boundaries of the subdivision; and the sum of the distances of each subdivision of the application abutting on the water, so determined, shall be considered as the total shore length of the application. Where, so measured, the excess of shore length is greater than the deficiency

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would be if an end tract or tracts were eliminated, such tract or tracts shall be excluded, otherwise the application may be allowed if in other respects proper.

(b) The same method of measuring shore space will be used in the case of special surveys, where legal subdivisions of the public lands are not involved.

(c) The following sketch shows the method of measuring the length of shore space, the length of line *A* or line *B*, whichever is the longer, representing the length of shore space which is chargeable to the tract:



§ 2094.2 Waiver of 160-rod limitation.

(a) The Act of June 5, 1920 (41 Stat. 1059; 48 U.S.C. 372) provides that the Secretary of the Interior in his discretion, may upon application to enter or otherwise, waive the restriction that no entry shall be allowed extending more than 160 rods along the shore of any navigable waters as to such lands as he shall determine are not necessary for harborage, landing, and wharf purposes. The act does not authorize the waiver of the 80-rod restriction, mentioned in § 2094.0-3.

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(b) Except as to trade and manufacturing sites, and home and headquarters sites, any applications to enter and notices of settlement which cover lands extending more than 160 rods along the shore of any navigable water will be considered as a petition for waiver of the 160-rod limitation mentioned in paragraph (a) of this section, provided that it is accompanied by a showing that the lands are not necessary for harborage, landing and wharf purposes and that the public interests will not be injured by waiver of the limitation.

Group 2100—Acquisitions

PART 2110—GIFTS

Subpart 2110—Gifts; General

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2111.4 Status of lands.

AUTHORITY: Sec. 2, 48 Stat. 1270, R.S. 2478, as amended, sec. 8, 48 Stat. 1272, as amended; 43 U.S.C. 315a, 1201, 315g.

Subpart 2110—Gifts; General

§ 2110.0-1 Purpose.

The Secretary of the Interior may accept as a gift, lands, with or without improvements thereon, with or without limitations or conditions as to the future use and disposition thereof, in fee simple or any interest less than fee, where possession of such land or interest will promote the purposes of a grazing district or facilitate the administration or contribute to the improvement, management, use or protection of public lands and their resources. The authority of the Secretary is discretionary and acceptance of offers rests,